

## Environmental Health Referral Response - commercial use

<b>Application Number:</b>	Mod2018/0350
<b>To:</b>	Nick Armstrong
<b>Land to be developed (Address):</b>	Lot 1 DP 72587 , 1 Kalinya Street NEWPORT NSW 2106

### Reasons for referral

This application seeks consent for one or more of the following:

- Food premises, or
- Backpackers/Boarding house, or
- Mortuary, or
- Skin penetration, accupuncture, tattoo, beauty salon, or
- Public pool

And as such, Council's Environmental Health and Protection officers are required to consider the likely impacts.

### Officer comments

#### General Comments

Thank you for the opportunity development modification application.

Proposed structure/development originally approved as an open metal roof pavilion. The Statement of Environmental Effect for DA N00037/16 does not propose use of the pavilion as a Seafood restaurant/kitchen/bar however the development was referred to as a "seafood buffet/bar structure" in their Geotechnical report from Crozier Geotechnical Consultants, dated 8 January 2016, and "seafood bar" in the Heritage impact statement from City Plan Services, dated 22 January 2016. The Statement of Environmental Effects only refers to a Seafood kitchen when quoting the Heritage impact statement.

Routine food inspections in 2017 and 2018 have revealed that a metal frame pavilion was constructed with a canvas roof, most recently at a re-inspection on 3 August 2018. At the time of inspection this structure was in use as a seafood kitchen and bar including use of 4 gas wok burners, beer taps, food preparation benches, fridges and seafood (prawns and oysters) display. The development also has a menu board advertising the food for sale.

Currently the structure is not constructed in accordance with approved plans and is operating in contravention of the original DA condition B.2. Deletion of this condition would provide retrospective approval of the use however no new details have been provided such as an acoustic report on the increased use despite the developments current illegal use. Furthermore no details on how the development will comply with Australian Standards for design, construction and fit-out of the new food /beverage premises AS4674:2004. The current food premises in use does not comply with Australian Standards or the Food Standards Code, including but not limited to:

- No controls in place to prevent pest entry;
- Bar, benches and some food preparation surfaces were constructed with form ply which edges had not been adequately sealed and they could not be easily or effectively cleaned and sanitised;
- No Mechanical ventilation provided for cooking equipment;
- Canvas ceiling could not be easily or effectively cleaned and the inspections revealed grease, smoke and other visible staining;
- Concrete floor was not sealed or finished with materials that can be easily and effectively cleaned.

Significant works would be required to replace the existing structure and insufficient information has been provided to support its proposed use. Considering the illegal building works and use of the food premises Environmental Health recommends refusal of this modification at which point a Notice will be issued to cease use of the pavilion as a Seafood Kitchen/bar.

### **Recommendation**

REFUSAL

### **Recommended Environmental Health and Protection Conditions:**

Nil.